

REMARKS

The above amendments and these remarks are responsive to the Office action dated August 10, 2005. Claims 1-16, 18-20, 22 and 23 are pending in the application. In the Office action, the Examiner rejected claim 9 under 35 U.S.C. § 112, rejected claims 1-5, 7-9, 12-14, 22, 23 under 35 U.S.C. § 102(b) as being anticipated by Lay, rejected claims 1-14, 22, 23 under 35 U.S.C. § 102(b) as being anticipated by Kinnamon et al, rejected claim 4-7 under 35 U.S.C. § 102(b) as being anticipated by Reed, rejected claims 4, 7 and 9 under 35 U.S.C. § 102(b) as being anticipated by Brown et al., rejected claim 9 under 35 U.S.C. § 102(b) as being anticipated by Staller, rejected claims 15-20 under 35 U.S.C. § 103(a) as being unpatentable over Canning et al. or Dean et al. in view of Staller, rejected claims 15-20 under 35 U.S.C. § 103(a) as being unpatentable over Canning et al. or Dean et al. in view of either Santelli, Jr. or Lay. The Examiner also required restriction or election of claims 1-16, 18-20, 22 and 23 under 35 U.S.C. §121. In view of the amendments above, and the remarks below, applicant respectfully requests reconsideration of the application under 37 C.F.R. § 1.111 and allowance of the pending claims.

Restriction

In response to the restriction requirement, applicant elects Group II including claims 15-20. Applicant has also added claims 24-30 directed to a rack system including a crossbar, towers, and a support.

Applicant has cancelled the non-elected claims. However, applicant respectfully disagrees with the rejection of claims 4-14, and reserves its right to present arguments supporting its position in a continuation application.

35 U.S.C. § 112

The Office action states that the specification fails to provide antecedent basis for the first support, second support and the third and fourth supports, the first and second ends of the expanse. This point is now moot in view of applicant's amendments to the elected claim set.

Paragraph three of the Office action states that claim 9 is rejected under 35 U.S.C. § 112. This rejection is now moot in view of applicant's cancellation of claim 1.

35 U.S.C § 102(b)

Claims 1-5, 7-9, 12-14, 22, and 23 were rejected under 35 U.S.C. § 102(b) as being anticipated by Lay (3,113,642). These claims have either been not elected and cancelled, or amended and/or replaced by claims that recite a crossbar and towers for supporting the crossbar on top of the vehicle. Therefore, none of the pending claims are anticipated by Lay.

Further, all of the other 35 U.S.C. § 102 rejections in the Office action involve prior art that fails to teach or suggest a crossbar on top of a vehicle. Therefore, the pending claims are not anticipated by any of the prior art of record.

35 U.S.C § 103

Claims 15-20 were rejected under 35 U.S.C. § 103 as being unpatentable over Canning or Dean in view of Staller. Applicant traverses this rejection with respect to the current claims as amended. The current claims recite a crossbar and a wedge-shape support member formed by a base, a back wall, and a sloped expanse, the support member having a support rib extending through an internal space to provide support for

the expanse. No one in the prior art has taught or suggested the recited support member configuration for use on a vehicle rack support for a boat hull. Staller's device has no support rib passing through an internal space. There is no way to combine Canning, Dean and/or Staller to obtain the rack system as currently claimed.

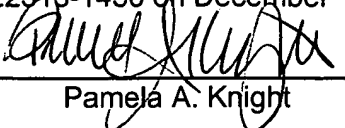
In paragraph ten of the Office action, claims 15-20 were rejected as being unpatentable over either Canning or Dean in view of either Santelli or Lay. However, Santelli and Lay disclose wheel bumpers. Whereas, Canning and Dean relate to car top rack devices. There simply is no teaching or suggestion to combine any one of the wheel bumper references with one of the vehicle top rack references to yield the recited boat hull support member and device configured for attaching a support member to a crossbar. Therefore, the current claims are patentable over the art of record.

Accordingly, Applicant submits that claims 15, 16, 18, 19 and 24-30 as amended are patentable over the art of record, and should be deemed allowable.

Applicant believes that this application is in condition for allowance. If the Examiner has any questions, or if a telephone interview would in any way advance prosecution of the application, please contact the undersigned attorney of record.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, to: Mail Stop AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on December 12, 2005.



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Respectfully submitted,

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